

Practitioner's Docket No. 700157-48012

PATENT

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: David E. Fisher

Application No.: 09/229,283      Group No.: 1642  
Filed: 1/13/1999      Examiner: UNGAR, Susan  
For: USE OF MICROPHTHALMIA FOR DIAGNOSIS, PROGNOSIS  
AND/OR TREATMENT OF MELANOMA

## SECOND DECLARATION OF DAVID E. FISHER

I, David E. Fisher, hereby declare I am the inventor of the above-described invention.

1. I am aware that the Examiner has raised a question as to whether the Mi antibody used in the present screening method must be able to distinguish among different Mi isoforms.

2. The answer to this question is no. As the Examiner indicated, the M isoform is the isoform known to be associated with melanoma. The present screening method looks at whether Mi is expressed in a malignant cell. As I previously explained, there are numerous means to determine whether a cell is or is not malignant.

3. In looking at malignant cells, if Mi is expressed, our experience indicates that the malignant cell is most likely to be of melanoma origin.

4. There is very little difference between the amino acid sequences of the known Mi isoforms. And antibodies that are being successfully used for screening do not distinguish between the Mi isoforms.

5. I further declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the

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United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

 1/6/05  
\_\_\_\_\_  
David E. Fisher

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